

**CITY OF CANANDAIGUA
ZONING BOARD OF APPEALS
COURT ROOM, CITY HALL
January 20, 2016**

PRESENT:	Ryan Akin	Lloyd Peterson
	Dwight Symonds	Andrew Cotter
	James Hitchcock	Joseph Bader

ABSENT: Michelle Albrecht

ALSO PRESENT: Richard E. Brown, Zoning Officer

CALL TO ORDER:

Chairperson Akin called to order the regular meeting of the Zoning Board of Appeals at 7:02 P.M.

Chairperson Akin welcomed the new members to the Zoning Board.

APPROVAL OF MINUTES:

Chairperson Akin asked if anyone had any corrections or additions to the Zoning Board Regular Meeting Minutes of November 18, 2015 (There was no December meeting). Mr. Peterson moved to approve the minutes as written. Mr. Bader seconded the motion, which carried by voice vote (6-0).

REVIEW OF APPLICATIONS:

ITEM 1 Application #15-258A: 168 Niagara Street, ROBERT KASE, requesting amendment to the conditions of approval granted on September 16, 2015. Applicant requests that the requirement for a 30-year easement from the Finger Lakes Railroad be removed.

Mr. Akin noted minutes were included in member's packet concerning the application from the prior approved variance.

Application was presented by John Berry. He has reached out to Finger Lakes Railroad and found they did not want to offer a serious lease. Their best offer was to lease the land, but be able to terminate contract at any time, with a 30 day notice.

Chairperson Akin opened the public hearing.

Mr. Malcom Allen, 47 Leicester Street, asked if the footprint of building would still remain the same.

Chairperson Akin noted applicant is not asking to remove any other condition than the 30-year lease. The footprint of the building will remain the same.

Seeing no other speakers, Chairperson Akin closed the public hearing.

The Board proceeded with questions to the applicant. Chairperson Akin reminded the Board to keep in mind that this is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Mr. Bader believes the granting of the variance would not affect the character of the neighborhood. Mr. Hitchcock agreed.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Mr. Bader believes granting the variance is the only way to proceed. Mr. Hitchcock agreed. Mr. Symonds stated the building was not built with modern ideas in mind.

Regarding question #3: *Show that the requested variance is not substantial.*

Mr. Bader said the variance appears substantial with regard to the percentages sought, but in the overall picture it does not seem unreasonable. Mr. Cotter concurred.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Symonds asked about the proposed demolition; would the foundation be removed. The applicant is just removing the front porch. Mr. Brown answered that they will be working within the original footprint.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Mr. Bader noted that Mr. Kase did not build the building, so it's not self-created. Mr. Akin agreed that the building was pre-existing.

Mr. Peterson asked for a refresher as to why the board had attached the condition of the lease. Chairperson Akin answered that the board had concerns about the lack of setback. Mr. Brown

stated the applicant came forward with the idea of the lease, the Zoning Board of Appeals did not mandate this.

Mr. Brown noted that the structure already exists, but the variances are necessary to reuse the building.

Chairperson Akin reminded the board the motion id to amend the previous approval by removing the requirement of a 30 year lease, the other conditions will remain.

The first condition of approval shall be stricken and the second condition shall remain.

1. ~~As proposed, the owner shall secure a lease of the adjacent property for a minimum period of 30 years.~~
2. Work shall be limited to the building footprint as shown in the proposed site plan.

Chairperson Akin asked if there were any further questions for the applicant. As there were none, he called for a motion.

Mr. Peterson moved for approval of the variance, finding that the benefit of the variance to the applicant outweighs the detriment of the variance to the neighborhood for the following reasons;

- #1 The granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #2 The benefit sought by the applicant cannot be achieved by other feasible means that do not require a variance;
- #3 The variance is not substantial, based on the conditions of the site.
- #4 The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.
- #5 The hardship is not self-created.

Mr. Cotter seconded the motion, which *carried* with a roll call vote of 6-0:

The motion carried with a roll call vote of 6-0:

Lloyd Peterson	Voting	YES
Michele Albrecht	Voting	ABSENT
Dwight Symonds	Voting	YES
Andrew Cotter	Voting	YES
James Hitchcock	Voting	YES
Joseph Bader	Voting	YES
Ryan Akin	Voting	YES

ITEM 2 **Application #16-005: 187 Clark Street, ANNE E. HARVEY, requesting an Area Variance necessary to construct an accessory structure within 4 feet of the property line. In accordance with Zoning Schedule 1 of the Municipal Code of the City of Canandaigua, the minimum side yard setback is 5 feet. Therefore, the applicant requests a variance of 1 foot.**

Application was presented by Anne and Charles Harvey. Mr. Harvey explained that he was not aware he needed a permit for a shed. Code Enforcement officer pointed out he needed a permit for the shed and then after applying for the permit he found he also needed a variance.

Chairperson Akin opened the public hearing. Seeing no one the public hearing was closed.

The Board proceeded with questions to the applicant. Chairperson Akin reminded the Board to keep in mind that this is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Mr. Hitchcock confirmed that the shed is existing. Mr. Peterson asked when the shed was completed and the use of the shed. The shed was installed before the holidays, and is needed for storage. Mrs. Harvey enjoys gardening and needs the shed for storage and more organized space.

Mr. Peterson noted applicants have made good effort to have the shed look consistent with the property.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Mr. Cotter believes it is not feasible to redo the extensive landscaping to move the shed. Mr. Symonds agrees that moving the shed would impede on existing landscaping.

Regarding question #3: *Show that the requested variance is not substantial.*

Mr. Bader and Mr. Symonds believe it is not substantial.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Peterson believes the shed and landscaping are attractive.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Mr. Cotter believes it is not self-created. There is a mature tree that limits the space available.

Chairperson Akin asked if there were any further questions for the applicant. As there were none, he called for a motion.

Mr. Peterson moved for approval of the variance, finding that the benefit of the variance to the applicant outweighs the detriment of the variance to the neighborhood for the following reasons;

- #1 The granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #2 The benefit sought by the applicant cannot be achieved by other feasible means that do not require a variance;
- #3 The variance is not substantial.
- #4 The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

Mr. Bader seconded the motion, which *carried* with a roll call vote of 6-0:

Lloyd Peterson	Voting	YES
Michele Albrecht	Voting	ABSENT
Dwight Symonds	Voting	YES
Andrew Cotter	Voting	YES
James Hitchcock	Voting	YES
Joseph Bader	Voting	YES
Ryan Akin	Voting	YES

ITEM 3 **Application #16-006:290 North Main Street, ROBERT MYERS, requesting an Area Variance necessary to convert the second story of a detached structure to residential use. In accordance §850-11 of the Municipal Code of the City of Canandaigua, no existing accessory structure shall be converted or expanded for residential use. Therefore the applicant seeks a variance from this prohibition.**

Robert Myers represented the application. He is looking to make the existing barn's second floor more useable; possibly a recreation room. There will be no plumbing and no beds.

Chairperson Akin opened the public hearing. Seeing no one the public hearing was closed.

The Board proceeded with questions to the applicant. Chairperson Akin reminded the Board to keep in mind that this is a request for an Area Variance and the board will be weighing the benefit of the variance to the applicant against the detriment of the variance to the neighborhood.

Beginning with question #1: *Show that the granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.*

Mr. Hitchcock said that there is limited visibility from the street. Also, there would be no change to the exterior and therefore it will not impact the character of the neighborhood.

Regarding question #2: *Show that the benefit sought by the applicant cannot be achieved by some other feasible method that would not require a variance.*

Mr. Akin asked why the proposal did not require a Use Variance. Mr. Brown said the action does not change the land use of the property; it is still a single-family home (a Bed & Breakfast is still a single-family home).

Regarding question #3: *Show that the requested variance is not substantial.*

Mr. Bader said the applicant is not changing the footprint of the structure; therefore the request is not substantial.

Regarding question #4: *Show that the proposed variance will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood.*

Mr. Cotter noted that all changes will be interior, so there would be no environmental impact.

Regarding question #5: *Show that the alleged hardship is not self-created.*

Mr. Bader believes it to be self-created. Mr. Akin agreed.

Chairperson Akin asked if there were any further questions for the applicant. As there were none, he called for a motion.

Mr. Bader moved for approval of the variance, finding that the benefit of the variance to the applicant outweighs the detriment of the variance to the neighborhood for the following reasons;

- #1 The granting of the variance will not produce an undesirable change in the character of the neighborhood or create a detriment to nearby properties.
- #2 The benefit sought by the applicant cannot be achieved by other feasible means that do not require a variance;
- #3 The variance is not substantial.
- #4 The proposed variance will not have an adverse impact on the environmental conditions in the neighborhood.

Mr. Cotter seconded the motion, which *carried* with a roll call vote of 6-0:

Lloyd Peterson	Voting	YES
Michele Albrecht	Voting	ABSENT
Dwight Symonds	Voting	YES
Andrew Cotter	Voting	YES
James Hitchcock	Voting	YES
Joseph Bader	Voting	YES
Ryan Akin	Voting	YES

ITEM 4 **Application #16-004: 136 Bemis Street, RICHARD ROSEBERRY, requesting Area Variances necessary to demolish the existing structure and construct a 20' x 35' structure. In accordance with Zoning Schedule 1 of the Municipal Code of the City of Canandaigua, the following variances are required:**

	<u>Minimum</u>	<u>Provided</u>	<u>Variance</u>
Lot Area	3,000 SF	1,780 SF	1,220 SF
Lot Width	40 ft.	30 ft.	10 ft.
Lot Depth	60	59.25	0.75 ft.
Side Yard 1	5	2	3 ft.
Side Yard 2	5	2.2	2.8 ft.
Total Side Yard	15	2.5	12.5 ft.
Rear Yard	20	5	15 ft.
Parking	5	2	3

Mr. Brown stated the applicant was not able to be present and asked that the application be tabled.

Chairperson Akin opened the public hearing. There was no one present.

Mr. Hitchcock Moved to table the application. Mr. Cotter seconded the motion, which *carried* with a roll call vote of 6-0:

Lloyd Peterson	Voting	YES
Michele Albrecht	Voting	ABSENT
Dwight Symonds	Voting	YES
Andrew Cotter	Voting	YES
James Hitchcock	Voting	YES
Joseph Bader	Voting	YES
Ryan Akin	Voting	YES

This application will be placed on the agenda for the next meeting of the Zoning Board of Appeals on February 17, 2016.

Chairperson Akin said the public hearing will carry over to the next meeting.

ADJOURNMENT:

Mr. Peterson moved to adjourn the meeting at 8:00 P.M., seconded by Mr. Bader and carried with a voice vote (6-0).

Richard E. Brown, Secretary

Ryan Akin, Chairperson